

REMARKS

After entry of the present amendment, Claims 1-28 remain pending in the application. The present amendment amends independent claims 1, 7, 13, and 21 to clarify the scope of the claimed inventions of claims 1, 7, 13, and 21. Claim 1, for example, has been amended to include the element: "identifying, via a processor, transactions eligible for pre-funding to a merchant." Claims 7, 13, and 21 have been similarly amended. Claims 1, 7, 13, and 21 have been further amended to clarify that the methods of claims 1 and 13 and the systems of claims 7 and 21 are computer implemented and implemented via a processor.

Attorney and Agent for Assignee would like to thank Examiner Savusdiphol and Supervisory Examiner Franklin for their time in the Examiner interview, which was held by telephone on November 5, 2008. During the interview, distinctions between the claimed inventions, as amended, and the cited art references were discussed. No agreement as to patentability of the amended claims was reached. Reconsideration of the application is respectfully requested in view of the present amendments and accompanying remarks.

Claim Rejections Under 35 U.S.C. § 102

The final Office Action rejects claims 1, 3-7, and 9-12 under 35 U.S.C. § 102(e) as being anticipated by Strayer et al., U.S. 2004/0054622 A1, (hereinafter "*Strayer*"). Independent claim 1 has been amended by the present amendment to include the element: "identifying, via a processor, transactions eligible for pre-funding to a merchant." Claim 7 has been amended to include a similar element. These amendments are fully supported in the Applicants' specification in at least paragraph [0070], which states in part that the processor "may be configured such that funds respecting electronic payment transactions that have transpired within a certain prior to the cut-off time, but that are not scheduled to settle until after the cut-off time, are funded to merchant 110--even though such transactions have not settled. Such funding (before settlement) is called "pre-funding."

In *Strayer*, “a card type for the transaction is identified from transaction data submitted by the merchant, and the merchant-specific transaction processing parameters associated with the identified card type are used to control transaction processing.” (*See abstract*). But *Strayer* does not teach or suggest the element: “identifying, via a processor, transactions eligible for pre-funding to a merchant.”

Therefore, for at least the reasons provided above, the amended claims 1 and 7 are distinguishable over the cited reference and should be allowed. Remaining dependent claims 2-6 and 8-12 are ultimately dependent from either independent claims 1 or 7, for which arguments of patentability have been provided above. If the base independent claims are allowable over the cited reference, the corresponding dependent claims should also be in condition for allowance.

Claim Rejections Under 35 U.S.C. § 103

Claims 2 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Strayer*. Furthermore, claims 13-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Strayer* in view of *Kramer et al.* US 2003/014007 (hereinafter “*Kramer*”). Independent claims 13 and 21 have been amended similarly to independent claims 1 and 7 as described above, for which arguments of patentability have been provided above.

Kramer relates to the instantaneous transfer of monetary value, but requires card-to-card “electronic cash schemes”. In such schemes, value is transferred from one smart card to another smart card by inserting cards one at a time into a personal computer or a pair of personal computers connected by a dedicated line. (*See* paragraphs [0779] and [0785]). Neither *Strayer* nor *Kramer* alone, or in combination, teach or suggest the element “identifying, via a processor, transactions eligible for pre-funding to a merchant.” Therefore, for at least the reasons provided above, amended independent claims 13 and 21 should be allowable over the cited references. Dependent claims 14-20 and 22-28 are ultimately dependent from either independent claims 13 or 21, for which arguments of patentability have been provided above. If the base independent claims are allowable over the cited references, the corresponding dependent claims should also be in condition for allowance.

CONCLUSION

It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,



Christopher J. Chan
Attorney for the Assignee
Reg. No. 44,070

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SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street NE
Atlanta, Georgia 30309-3996
Telephone: (404) 853-8049
Facsimile: (404) 853-8806
(First Data 051400US)

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